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Chair: Mr. Haniff ..... (Malaysia)

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The meeting was called to order at 10.05 a.m.

Agenda item 69: Promotion and protection of human rights (A/66/87)

(a) Implementation of human rights instruments (A/66/40 (vols. I and II),[1] A/66/44,[1] 48, 55, 175, 217, 259, 276 and 344)

(d) Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action (A/66/36)

1. **Mr. Šimonović** (Assistant Secretary-General for Human Rights), introducing several reports under the agenda item, said that the report of the Secretary-General on measures to improve further the effectiveness, harmonization and reform of the treaty body system (A/66/344) provided information on the workloads of treaty bodies, the current use of available resources and an update on the treaty-body strengthening process. He drew attention to two proposals in the report: presenting a comprehensive request, every two years, for a meeting of all treaty bodies to discuss workload in terms of reports submitted; and setting a fixed calendar based on 100 per cent compliance with the reporting schedule prescribed in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The report highlighted the goal of equitable geographical distribution in the membership of the human rights treaty bodies. Since the Third Committee addressed the operational requirements of treaty bodies in a number of separate resolutions considered on an annual or biennial basis, it would be useful to consider ways to address issues related to the treaty body system as a whole, such as through the proposals contained in the report.

2. The report of the Chairs of the human rights treaty bodies on their twenty-third meeting, held in Geneva on 30 June and 1 July 2011 (A/66/175) included a recommendation that the meeting of the Chairs should be held every other year in different regions with a view to enhancing the implementation of the human rights treaties, raising awareness of the work of the treaty bodies, and strengthening synergies between international and regional human rights mechanisms and institutions. It had been decided that their twenty-fourth meeting would be held in the African region in 2012, and a joint statement on the occasion of the twenty-fifth anniversary of the Declaration on the Right to Development had been adopted.

3. The International Convention for the Protection of All Persons from Enforced Disappearance, adopted in December 2006, had entered into force in December 2010, and 30 States were currently a party to the Convention. On 31 May 2011, a meeting of States parties had elected the first 10 members of the Committee on Enforced Disappearances, which would be holding its first session in Geneva in November 2011. He drew attention to the reports of the Human Rights Committee (A/66/40), the Committee against Torture and the Subcommittee on Prevention of Torture (A/66/44), the Committee on the Rights of Persons with Disabilities (A/66/55), the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (A/66/48) and the Committee on the Elimination of Discrimination against Women (A/66/38).

4. It would be useful for the Third Committee to consider holding dialogues during future sessions with the chairs of other Committees such as the Human Rights Committee, the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of Persons with Disabilities. The report of the Secretary-General on the activities of the United Nations Voluntary Fund for Victims of Torture (A/66/276) set out recommendations for grants to beneficiary organizations that were adopted by the Board of Trustees of the Fund and provided information on policy decisions adopted by the Board in implementation of the recommendations made by the Office of Internal Oversight Services.

5. **Mr. Grossman** (Chairperson, Committee against Torture) drew attention to the annual report of the Committee against Torture (A/66/44), and said that the Committee continued to have serious concerns about the reporting delays of State parties. It welcomed the submission of initial reports during the past year by Madagascar and Djibouti and called on the 30 States parties which had yet to present their initial reports — many of which were overdue by more than a decade — to do so. Periodic reports which were past due — of which there were at least 65 — should also be submitted without further delay.

[1] To be issued.

6. The new optional reporting procedure introduced in 2007, known as "the list of issues prior to reporting", greatly simplified the reporting process, while enriching dialogue, increasing the timeliness and resulting in more specific recommendations. States parties had reacted favourably to that procedure, and the Committee would evaluate and improve it going forward, taking into account suggestions from States parties and civil society organizations. Noting that the treaty body system as a whole was facing serious difficulties owing largely to the inadequate capacity of Secretariat conference services to process and translate documents in a timely manner, he encouraged Member States to reflect on the need for significant additional resources.

7. State party acceptance of the individual complaints procedure under article 22 of Convention was optional. It was regrettable that only 65 of the 149 States parties had made the declaration accepting the Committee's competence in that regard, and he called on the remaining 84 States parties to accept the procedure. He further noted that the Committee had considered the merits of 17 cases in the last year. Another critical issue for the individual complaints mechanisms was the need for full compliance with article 14 obligations to provide remedies to victims of torture and other cruel, inhuman or degrading treatment or punishment, and the need to ensure that victims obtained full redress.

8. To address its increased workload, the Committee against Torture had increased the number of reports that it examined at each session from 6 to 9 for the November session and to 8 for the May session. It had also increased the number of individual complaints reviewed, deciding 12 individual cases in the last session, as compared with 5 at the previous one. Currently, 106 petitions were pending as a result of the growing number of complaints submitted. While that increase was positive in that it indicated that individuals deemed it important to seek justice through the Committee's complaints procedure, States parties must endeavour to find permanent solutions to the resource and workload issues.

9. The Committee had dedicated more time to its confidential procedure under article 20. He appealed to the nine States that had declared that they did not recognize its competence in that regard to withdraw their reservations. The Committee had accelerated its work on general comments, adopting a first draft on a general comment explaining and clarifying the obligation of States parties under article 14 of the Convention. A second draft would be prepared at the Committee's upcoming session. The Committee had also been discussing a document on facts and evidence designed to address important issues, such as the weight that should be accorded to domestic determinations and the proper standard of proof.

10. Turning to the consultation process launched by the High Commissioner for Human Rights to strengthen the treaty body system, he noted that the growth of that system had not been matched with equivalent resources and that measures which led to increased efficiency did not necessarily reduce costs. Making the Committee's work more effective at the national level required more investment, enhanced cooperation with States and improved time management. Member States had an obligation to provide adequate resources, so that the system that they had created could perform effectively.

11. The numerous international and regional instruments which set out provisions for the unequivocal and absolute prohibition of torture and cruel, inhuman or degrading treatment or punishment had been essential in providing the legal legitimacy with which to advance the values of human dignity embodied in those treaties and conventions. For its part, the Committee had achieved significant progress in transforming countries' legal norms, investigating and punishing perpetrators of torture, and excluding confessions extracted through torture from legal proceedings.

12. In spite of those developments, acts of torture continued to be perpetrated: there were cases of failure to implement the Convention's provisions; refusals to adopt a clear definition of torture, to criminalize torture or to set out adequate penalties; and continued "rendition" of suspects to countries that used torture as a means of investigation and interrogation. Moreover, forced disappearances continued to deny persons their basic legal safeguards, and rehabilitation and redress were rarely provided to victims or their families. In that respect, States parties needed to recommit themselves to the full realization of the goals of the Convention.

13. It was important to keep sight of the human dimension in discussing torture, and the women, men and children who were victims. He highlighted a recent

case in which the Committee's conclusion of substantial grounds for believing a complainant would be at risk of being tortured if returned to her country had been complied with by the State party in question, thus giving the victim of torture a chance at a new life.

14. **Mr. Evans** (Chairperson, Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) said that, during the course of 2010, the number of States parties to the Optional Protocol to the Convention against Torture had passed 50 and the number of members to be elected by States parties had increased from 10 to 25, making the Subcommittee the largest of the United Nations human rights treaty bodies. In 2010, the Subcommittee had conducted full visits to Lebanon, Bolivia and Liberia. It had also conducted its first follow-up visit, to Paraguay, which had proved useful, confirming the belief that the best way to ensure implementation of recommendations was by continuing direct discussion with the authorities who had day to day responsibility for detention issues in the countries concerned.

15. The report contained the Subcommittee's definitive guidelines on national preventive mechanisms. It was of great concern that nearly half of all States parties had not designated such mechanisms as set out in the Option Protocol, since that was the single most significant thing that a State could do to prevent torture and ill-treatment from occurring over time. In that regard, it would be helpful for Subcommittee members to meet with States parties as soon as possible after they became parties to the Protocol in order to discuss the establishment of national preventive mechanisms.

16. The report also set out the Subcommittee's approach to the concept of prevention, explaining that the prevalence of torture and ill-treatment was influenced by a broad range of factors, including general human rights, the rule of law, the level of poverty, social exclusion, corruption and discrimination. There were 61 States parties to the Optional Protocol, and that number was expected to increase significantly. As in 2010, the Subcommittee would only be able to conduct three full visits in the current year — to Brazil, Mali and Ukraine. That rate of visits was insufficient, and a far more dynamic engagement with States parties and with their national preventive mechanisms was envisaged, especially with the expansion of the Subcommittee. That problem could only be fully solved by increasing resources to support its work, but the Subcommittee was also aware that much could be done by reordering its own methods to make better use of the time and resources at its disposal.

17. In that respect, a number of changes had been made. The Bureau was currently composed of five members — a Chairperson and four Vice-Chairpersons, who were each responsible for a different area of activity. Regional task forces had been established to oversee national preventive mechanisms; and a system of informal meetings during plenary sessions had been set up to make better use of meeting time. The Subcommittee was also exploring the possibility of using its visiting mandate more creatively, tailoring visits to address the most pressing elements in the country concerned, and was seeking new ways of cooperating within the United Nations system, particularly with members of the Committee against Torture and the Special Rapporteur on torture, to find a comprehensive approach to tackling torture and ill-treatment. In that respect, the Subcommittee would be more open and transparent in its work, whilst fully respecting the principle of confidentiality in its work.

18. The Subcommittee welcomed that over half of the 12 reports from country visits transmitted to States parties had been released to the public, as that greatly facilitated prevention, and hoped that the remaining States would do likewise. Nevertheless, the Subcommittee remained concerned that the responses to its reports were not always received within the prescribed six-month period, nor did they always systematically and fully address the issues raised. Lastly, he was pleased to report that the Special Fund to help finance the implementation of recommendations of the Subcommittee as well as education programmes of the national preventive mechanisms, was nearly operational.

19. **Mr. Gálvez** (Chile) said that he welcomed in particular the efforts by the Committee against Torture to facilitate the reporting of States, which were especially helpful for developing countries and also its efforts to make better use of the resources at its disposal in the light of the increase in its report workload and meetings. The system of redress for victims was a particularly delicate issue for Chile. Since 1990, his Government had been implementing a system for redress for the victims or their immediate

family. The symbolic redress was also important, as that helped to heal the wounds of society.

20. Likewise, it was crucial to ensure that perpetrators of acts of torture and other cruel, inhuman or degrading treatment or punishment were held accountable. Efforts must be made to ensure the full implementation of the Convention. In that respect, he took note of the challenges set out in the report and its recommendations, ranging from the definition of torture, adequate sanctioning and the rejection of the practice of renditions to countries suspected of using torture.

21. **Mr. De Bustamante** (Observer for the European Union) asked whether the Committee, the Subcommittee and the Special Rapporteur on torture cooperated with other mandate holders and agencies, such as the United Nations Fund for Victims of Torture, public authorities, civil society at international, regional and local levels, national human rights institutions and academia. He asked the Chairperson of the Committee against Torture for an assessment of the document on facts and evidence in the context of the confidential procedure under article 20 of the Convention.

22. He also wished to hear what the Chairperson of the Subcommittee thought could be done to promote the benefits of establishing national preventive mechanisms in the light of the fact that nearly half the States parties to the Optional Protocol had not yet established such mechanisms. It would be interesting to know how the Subcommittee was coping with its expansion to 25 members and making the best use of its enhanced capacity. Lastly, he asked what the pros and cons were of the confidentiality approach under the Optional Protocol, in the light of the fact that half the country reports in that context had been kept confidential.

23. **Mr. Frick** (Liechtenstein) asked the Chairperson of the Committee against Torture for his assessment of the system of focused reports, including the benefits and challenges that that posed for the future. He wondered whether the broad scope of the Convention against Torture, for example, its inclusion of measures to prevent domestic violence, did not undermine the prohibition of torture.

24. **Mr. Andrade** (Brazil) said that the Subcommittee's recent visit to Brazil had been useful and that the discussions between his Government and the Subcommittee had been fruitful. He was confident that the Subcommittee's recommendations would help his Government to improve its national policies for the prevention of torture. As regarded implementation of the Optional Protocol, the President of Brazil had recently sent to the Congress a draft law for the establishment of a national preventive mechanism, the structure of which would be in accordance with the Principles relating to the status of national institutions. That mechanism would be a committee for the prevention of torture, with 23 members appointed by the President, who would in turn appoint 11 experts. That mechanism would be able to freely access places of detention without prior notification, and if needed, would make time-sensitive recommendations to the heads of those places of detention.

25. The Federal Government was also promoting the establishment of preventive mechanisms by State and municipal authorities, noting that two such mechanisms had already been set up. A draft law for the establishment of a national truth commission had been approved by the lower chamber of Congress and was currently under consideration by the Senate. The establishment of that body would be a significant step towards recognizing the efforts of those who had fought for the redemocratization of Brazil and the right to memory and truth. The commission would have a mandate to investigate human rights violations that had occurred from 1946 to 1988 and would be composed of seven members appointed by the President, with the power to request information from public bodies, call on witnesses to testify, request technical and forensic analysis and promote public hearings. Lastly, he asked the Chair of the Subcommittee what measures could be taken to enhance the mechanism of country visits to States parties.

26. **Mr. Luhan** (Czech Republic) said that his Government regularly contributed to the OHCHR budget to support the work of the Subcommittee. He asked how the work of the Subcommittee had changed since its establishment and what main challenges lay ahead.

27. **Mr. Butt** (Pakistan) said that the dialogue and interaction with the mandate holders on torture was very useful and interesting. With regard to the overdue initial and periodic reports of States parties and the backlog in the Committee's consideration of reports, he asked how resources had been allocated initially and what mechanism was in place to help the Committee to

adapt to the changing requirements for the submission and consideration of reports in the light of the anticipated new States parties acceding to the Convention.

28. **Ms. Syed** (Norway) asked the Chairperson of the Committee against Torture for more information on the impact of the new optional reporting procedure and whether it had been producing the intended effects so far. She also wished to hear what main trends had emerged regarding States parties' follow-up on the recommendations and the extent to which they submitted information on follow-up measures. It would also be interesting to know how the Committee was addressing the issue of States parties' overdue reports.

29. **Ms. Raabyemagle** (Denmark) asked both Chairpersons whether the three mandate holders in relation to torture cooperated with other United Nations agencies and bodies which also played an important role in combating torture, including the Human Rights Committee and Special Rapporteur on extrajudicial, summary or arbitrary executions, or with regional bodies. She also wished to know what the desired end-result of the comprehensive review of the treaty-body system was and whether any special training was provided to the expanded Subcommittee in the light of the special skills sets that its mandate demanded as compared with other treaty bodies.

30. **Mr. Grossman** (Chairperson, Committee against Torture), responding to questions and comments, said that he agreed that reparations were essential and that assurances of non-repetition of acts of torture was crucial. Financial compensation was not enough for victims of human rights violations, since the dehumanizing effect of the treatment that they received often touched on their very identity and reputation, and the effects extended to their families. It was thus important to ensure that a mechanism was in place for full, comprehensive redress.

31. He agreed that cooperation was needed between a range of national and international bodies and instruments to provide training and education, and more could be done in that regard. Institutionalization of the reporting procedure across various treaty-bodies was crucial to ensuring the legitimacy of the work of the various committees. The Committee against Torture thus examined the comments, decisions and recommendations of other Treaty-based bodies to ensure coherence. While it regularly held open-ended meetings with the Special Rapporteur in the context of the Optional Protocol, it was working on holding meetings with a specific agenda on main issues of concern. The Committee against Torture worked with civil society in public meetings, in an open and transparent way, and also heeded the views of national human rights bodies. He would welcome suggestions from the Third Committee on how to improve cooperation with various stakeholders.

32. The matter of facts and evidence was a complex one that involved both civil responsibility and State responsibility. Generally, where civil responsibility was concerned, the concept of the preponderance of evidence was used, whereas for criminal responsibility, it was that of "beyond a reasonable doubt", requiring a higher level of proof. Determining the responsibility of a State was complex, and a standard for proof was still under discussion, with a view to the best possible outcome and to ensure the credibility of the Committee. He noted that regional authorities like European Court of Human Rights had set out principles for the responsibilities of domestic judicial authorities; and the Inter-American Court of Human Rights had a similar system.

33. States parties' responses to the list of issues prior to reporting were only relevant and useful if provided within a year of receiving the list. It was thus crucial that they limit the delays in their responses, as well as the length of their reports, in order to ensure the best use of resources. It was also important to set priorities rather than limits in relation to the work of the bodies addressing torture. Lastly, he recalled that the Committee against Torture had two rapporteurs to follow-up to specific articles. Some recommendations stipulated deadlines of one year for follow-up, although the Committee realized that it was not realistic to expect that a legal system could be changed within that time. The Committee thus sought continuing dialogue with States parties.

34. **Ms. Morgan-Moss** (Panama), noting that her country had ratified the Optional Protocol to the Convention against Torture earlier that year, said that she would like to know what the formal procedure for beginning a constructive dialogue with the Subcommittee, including a country visit, entailed.

35. **Mr. Evans** (Chairperson, Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) said that the

Subcommittee and the Committee against Torture were experimenting with ways to make their annual joint meeting as useful as possible given the increased membership in both bodies, by focusing on relevant procedural and substantive issues. Most cooperation with colleagues was informal and took place through conversation and information-sharing. The Subcommittee paid careful attention to the work of all mechanisms and regional bodies in thinking about its own visiting programmes and operations, and it had good connections with civil society. Cooperative work was based on building partnerships.

36. The Subcommittee endeavoured to assist States parties in promoting the benefits of national preventive mechanisms and had established a more robust set of guidelines to that end. Given the challenges of the Subcommittee's expanded membership, its working practices were being reformed in order to ensure that all 25 members were fully and effectively engaged, in accordance with Optional Protocol's provisions. Working on a confidential basis with States parties had both benefits and drawbacks. While it gave the Subcommittee the opportunity to enter into close relationships with States and receive open and honest responses from them, it also prevented other interlocutors from benefiting from its recommendations, which also remained confidential, thereby limiting the benefits of the Subcommittee's visit. He therefore hoped that the initial need for confidentiality would give way to greater openness as those exchanges moved into the public domain.

37. He was pleased to hear that the Subcommittee's visit to Brazil had been helpful for that country and that procedures had been put in place for the establishment of a national preventive mechanism at the federal level to complement existing state-level mechanisms. Follow-up could be improved by responding to reports within the six-month time frame requested and ensuring that the responses focused on the point made initially by the Subcommittee. Beyond that level of interaction, opportunities for informal exchange, dialogue and discussion with the Subcommittee should be sought.

38. The challenges currently faced by the Subcommittee were, in a sense, the same as those that it faced in earlier stages, but were magnified by the passing of time and the increase in the number of States parties. Conducting country visits on a regular basis posed an ongoing challenge for the Subcommittee. In that regard, national preventive mechanisms helped fill gaps in the cycle of country visits by serving as local interlocutors for the Subcommittee and by conducting preventive work in the country. He stressed the importance of following up on visits, rather than adding more visits, each of which commenced a new, discrete process that was difficult for the United Nations Secretariat and OHCHR to service and support.

39. While it was certainly necessary to engage a wide range of actors in fulfilment of the Subcommittee's mandate, not only within treaty bodies but also across the United Nations system, such engagement posed practical challenges. With regard to enhancing the compliance of States parties with their treaty obligations, reforming the work done by treaty bodies was only one step in the process. It was also necessary to avoid duplication of effort among treaty bodies and to find better channels whereby information might be shared.

40. The expanded Subcommittee membership had made it possible to put together visiting teams with a wider range of skills. Training was important to try to integrate experiences into common working practice. There were ongoing attempts to establish groups within the Subcommittee to examine such issues as negative consequences and potential reprisals targeting persons with whom the visiting team had met. Some of the difficulties posed by training included the lack of a language common to all members of multilingual visiting teams, which made working outside the formal plenary more complicated if the Subcommittee was to draw upon the resource pool of the entire membership.

41. Engagement with States parties to the Optional Protocol formally began when the Subcommittee decided to conduct its first country visit. He hoped that the Subcommittee would be able to visit newly ratifying States on an informal basis to explain the Protocol system in greater detail, including the process of designating national preventive mechanisms within the first year of ratification. Although the Subcommittee should be engaging with States within that crucial year, the current modus operandi impeded such early engagement because it was built around formal visits alone.

42. **Mr. Méndez** (Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment) said that his first interim report to the

General Assembly (A/66/268) presented his findings on the use of solitary confinement. Defined in his report as the physical and social isolation of individuals confined to their cells for 22 to 24 hours a day, solitary confinement was global in nature and subject to widespread abuse. Prolonged or indefinite solitary confinement was of particular concern given its increase in various jurisdictions, especially in the context of the "war on terror" and efforts to counter "threats to national security".

43. While prolonged solitary confinement might itself amount to prohibited ill-treatment or torture, there was no international standard for the permissible maximum overall duration of solitary confinement. He called for a limit of 15 days between "solitary confinement" and "prolonged solitary confinement", based on documented findings regarding the point at which some of the harmful psychological effects of isolation could become irreversible, and proposed a worldwide ban on prolonged or indefinite solitary confinement. One of the harmful elements of solitary confinement was social isolation, as the resulting level of social stimulus was insufficient for the confined individuals to remain in a reasonable state of mental health and led to serious health problems regardless of the specific conditions of their detention or pre-existing personal factors. Moreover, some of the negative health effects, such as lasting personality changes, were long-term.

44. It was important to maintain a clear distinction between solitary confinement and various forms of segregation that were necessary in places of detention for the safety of vulnerable detainees, though such separation must not hinder their social interaction. The adverse effects of solitary confinement had led him to conclude that the practice was a harsh measure contrary to one of the essential aims of the penitentiary system, namely, that of rehabilitating offenders and facilitating their reintegration into society. Juveniles and individuals with mental disabilities should never be subjected to solitary confinement, and alternative ways of treating mental illness should be found. Because of the severe mental suffering inflicted on juveniles and the mentally ill by the practice when used as a punishment, solitary confinement amounted to torture or cruel, inhuman or degrading treatment or punishment in those cases, depending on the severity of the conditions.

45. When used as a form of punishment after conviction, solitary confinement added a measure of inhumanity to the penalty that could not be justified as inherent to what was already a lengthy prison term. It also precluded the possibility of rehabilitation and reform, which should always be the object of the penalty. In the case of pretrial detention, it became a form of undue pressure for a confession or for cooperation with the prosecution of others, objectives that should be pursued strictly as voluntary on the part of the detainee.

46. When applied in pretrial detention because of the seriousness of the offence charged, it also became a violation of the presumption of innocence. In practice, the use of solitary confinement during investigations or in pretrial detention increased the risk that acts of physical or mental torture and other cruel, inhuman or degrading treatment would go undetected and subsequently unchallenged. He therefore proposed a ban on solitary confinement as a penalty, in pretrial detention, indefinitely or for a prolonged period, for persons with mental disabilities and juveniles.

47. Certain physical conditions in places of detention, when combined with the prison regime of solitary confinement, failed to respect the inherent dignity of the human person and caused severe mental and physical suffering. Depending on the severity of the conditions, the length of the solitary confinement regime, and the absence of mitigating factors such as family visits, the isolation of inmates in such conditions amounted to cruel, inhuman or degrading treatment or punishment or — in more severe cases — to torture.

48. He urged States to review their practices of solitary confinement and to respect and protect the rights of detainees while maintaining security and order in places of detention. States should prohibit the imposition of solitary confinement as punishment or as an extortion technique and put an end to the practice of solitary confinement in pretrial detention. Indefinite solitary confinement and prolonged solitary confinement in excess of 15 days should also be prohibited. Solitary confinement should be used only in very exceptional circumstances, some examples of which were mentioned in his report, and with minimum procedural safeguards in place. The Istanbul Statement on the Use and Effects of Solitary Confinement provided States with a tool to promote respect for and protection of the rights of detainees.

49. In cases where the use of solitary confinement might be justified in principle, he urged States to apply a set of guiding principles. First, the physical conditions, prison regime and duration of solitary confinement must be proportional to the severity of the disciplinary infraction for which it was imposed. Second, solitary confinement must be imposed only as a last resort where less restrictive measures could not achieve the intended disciplinary goals. Third, solitary confinement must never be imposed or allowed to continue except where it was determined that it would not result in severe pain or suffering. Finally, all decisions taken with respect to its imposition must be clearly documented and readily available to the detained persons and to their legal counsel.

50. States should also follow minimum internal and external safeguards in order to provide the greatest possible protection of the rights of detained persons in solitary confinement. The justification and duration of the confinement should be recorded and made known to the detained person. Lawyers and families should be notified immediately when an inmate's conditions of confinement had changed. Moreover, the justification for the imposition of solitary confinement should be reviewed regularly. Persons held in solitary confinement must be given a genuine opportunity to challenge both the nature of their confinement and its underlying justification through administrative review internally, and through the courts of law externally.

51. There should be no limitations imposed on the request or complaint. Individuals held in solitary confinement must have free access to competent legal counsel and qualified and independent medical personnel. Any deterioration of their mental and physical condition should trigger a presumption that the conditions of confinement were excessive and activate an immediate review. Additionally, medical personnel should regularly inspect the physical conditions of confinement. After careful review of communications from the public with allegations of torture or cruel, inhuman or degrading treatment or punishment, he engaged the respective Governments in a confidential process. A joint communications report of all special procedures was published regularly, including full versions of each country's response.

52. The Special Rapporteur had visited Tunisia earlier that year to examine violations and abuses committed under the previous regime and during the revolution that began in December 2010 and to identify measures needed to prevent torture and ill-treatment. He looked forward to continued engagement with the Interim Government of Tunisia, with whom he had shared a draft report of his findings and recommendations. The final version would be presented at the forthcoming session of the Human Rights Council in March 2012. Arrangements for country visits to Iraq, Kyrgyzstan, Bahrain and Tajikistan were being finalized, and he had formally conveyed his interest in visiting Ethiopia to that country's Government. Follow-up activities included a regional consultation on the implementation of recommendations from country visits undertaken in the Americas and the Caribbean and a joint secret detention study published by four special procedures mandate holders.

53. **Ms. Dali** (Tunisia) said that, while it awaited the results of his final report, her country was fully committed to increased cooperation with all special procedures and to the promotion of human rights more broadly.

54. **Mr. De Bustamante** (Observer for the European Union) said that he would like to know how cooperation with other special procedures mandate holders and relevant actors would proceed. He also enquired about the prevailing trends in the development of torture-prevention methods, and wondered whether the Special Rapporteur's approach to solitary confinement differed from his consideration of incommunicado detention.

55. **Ms. Martin** (United States of America), expressing appreciation for the Special Rapporteur's engagement with her Government, said that there was no international standard for the permissible duration of solitary confinement or for the circumstances in which it was legitimately employed. Her country's Constitution protected the rights of individuals confined in institutions, protections that its Supreme Court had interpreted to prohibit cruel and unusual punishment and to require prison officials to provide humane conditions of confinement. The right to constitutionally adequate medical care included mental-health care.

56. Those standards dictated that solitary confinement should not be used without a careful analysis of its nature, duration and reasons, as well as of the risk of unreasonable psychological or physical harm that might result from extended isolation. In

practice, the use of solitary confinement should be dependent on such variables as the risk of an individual to himself or others, the severity of the charge or offence, and the existence of satisfactory facilities and conditions of confinement. The United States Constitution required that such factors must be weighed to determine whether the use of isolation was justified.

57. As the Special Rapporteur's report made clear, the principles highlighted therein to assist States in reevaluating and minimizing the use of solitary confinement, or abolishing it outright, were not legal obligations and therefore might go beyond what was required by international law and the practice of most States in line with their legal systems. Nonetheless, in presenting them for consideration, the Special Rapporteur had furthered the discussion and evaluation of solitary confinement within and among Governments. She enquired whether the Special Rapporteur could indicate areas on which he intended to focus on in the coming year and whether the question of peaceful demonstrators would remain one of them.

58. **Mr. Roch** (Switzerland), welcoming the Special Rapporteur's contribution to the debate on solitary confinement, said that his Government found the discussion in the report of the adverse impact of indefinite detention on detainees especially relevant. In that connection, he would like to know how the Special Rapporteur had decided on a 15-day limit for solitary confinement. Also, given the widespread nature of solitary confinement and, consequently, the likely prevalence of torture and other cruel, inhuman or degrading treatment, he wondered what measures might be taken to encourage the prohibition of solitary confinement as a punishment. Lastly, he enquired whether it would be possible for a future report to address the link between torture and other cruel, inhuman or degrading treatment or punishment within the framework of the transitions to democracy that had gotten under way that year, in order to make better use of the opportunities and lessons learned throughout that process.

59. **Ms. Syed** (Norway) said that relevant stakeholders in her country would study with interest the Special Rapporteur's recommendations to help States reevaluate and minimize the use of solitary confinement. Norway agreed that all persons deprived of liberty must be treated with humanity and respect for the inherent dignity of the human person. With regard to the Special Rapporteur's call for States to abolish the practice of solitary confinement in pretrial detention and adopt effective measures at the pretrial stage to improve the efficiency of investigation and introduce alternative control measures in order to segregate individuals, protect ongoing investigations, and avoid detainee collusion, she wondered whether he might provide examples of effective alternatives.

60. **Ms. Raabyemagle** (Denmark) said that her delegation would like to know whether the Special Rapporteur had practical suggestions on how States might better assist him in his efforts, and whether he might comment on his impression of States' preparedness to receive him and grant him favourable working conditions. More detailed information on his victim-oriented approach would also be welcome, especially with regard to the rehabilitation of torture survivors. Did the obligation to rehabilitate them, stipulated by the Convention against Torture, also apply to States not responsible for the torture, in which the victims might find themselves as refugees?

61. **Mr. Méndez** (Special Rapporteur on torture and other forms of cruel, inhuman or degrading treatment or punishment) thanked Tunisia for its active support of his mandate during his country visit and in general. Cooperation with other mandate holders, while it could be more effective and productive, was already taking place, in the form of joint communications to States, for instance. OHCHR was making efforts to foster collaboration among all mandate holders.

62. With regard to preventive measures, it was crucial to support the work of the Subcommittee on Prevention of Torture and to encourage States parties to the Optional Protocol to the Convention against Torture to establish a national preventive mechanism. Moreover, there was a duty to investigate, prosecute and punish each incident of torture, as it was a qualitatively different kind of human-rights violation and failure to do so would replicate the conditions in which it occurred. It was also important for States to fully involve victims in the prosecution of torture cases and in the design of rehabilitation-related services.

63. In cases where solitary confinement was used, legitimately, as a means of preventing collusion among persons accused of a crime, incommunicado detention must be imposed as a strictly exceptional measure, for fewer than the 15 days that he had proposed in the ban on prolonged solitary confinement, and it must be

supervised by legal authorities and subject to very strict guarantees.

64. The issue of solitary confinement was pertinent precisely because there were no international standards in the problem areas that he had identified in his report, on the basis of which States might decide which measures to adopt domestically. Indeed, the purpose of his report and others like it was to establish, through customary practice at the global level, legally binding internationally standards. In the meantime, he intended to move towards that goal by asking States to consider setting certain limits in their domestic legal frameworks. Noting the existence of significant safeguards in some countries, he would welcome information on the extent of domestic access to those safeguards.

65. He had decided on an upper limit of 15 days for solitary confinement — an admittedly arbitrary figure given the difficulty of determining when a practice could be considered torture or cruel, inhuman or degrading treatment and in view of the many subjective factors involved — after studying the literature that documented the psychological effects of such confinement. In some cases, it took fewer than 15 days to cause lasting psychological damage; in any event, he also proposed safeguards to prevent such damage to detainees confined for periods under 15 days.

66. He called on Member States and civil society organizations to provide honest feedback on his report, which he had produced not as the last word on the subject but instead as a way of sparking discussion on the topic. The ongoing movement from dictatorship to democracy in several countries would provide a great opportunity to test new torture-prevention methods. In that connection, he was heartened by his interaction with actors from several Arab countries, in which the conditions for a veritable human-rights revolution were taking root. He would continue to attempt to visit those countries and establish a dialogue on specific cases.

67. With regard to effective alternatives to pretrial solitary confinement to segregate individuals, he reiterated that any segregation imposed must be for short periods of time and that the detainee must have access to legal assistance for the duration of detention. Communication with the outside world could be limited, but the terms of such a restriction must be defined by a legal authority.

68. **Ms. Cavanagh** (New Zealand), speaking on behalf of the CANZ group (Australia, Canada and New Zealand), called on States that had not yet ratified the Convention on the Rights of Persons with Disabilities to do so, and on all States parties to implement it. In 2011, the CANZ group had participated in the Human Rights Council's annual panel debate on the rights of persons with disabilities, and the Conference of States Parties to the Convention had been held, drawing welcome attention to a core principle, namely, that facilitating the full participation in society of persons with disabilities was of benefit to all society. The group also welcomed the continued work to mainstream the rights of persons with disabilities within discussions on achieving the Millennium Development Goals, including the Secretary-General's report on the subject.

69. Australia and New Zealand had submitted their initial reports to the Committee on the Rights of Persons with Disabilities on their implementation of the Convention that year. Canada would be doing so the following year and continued to work to improve the circumstances of persons with disabilities.

70. The large number of States that had acceded to the Convention in such a short time meant that the new Committee was already facing a serious backlog in its consideration of reports. Expressing concern that the brief, two-week period allotted for the Committee's annual session would restrict its efficiency, she endorsed the request before the Third Committee to give the Committee on the Rights of Persons with Disabilities additional annual meeting time commensurate with its workload, and to ensure that the rights of all persons with disabilities were treated equally within the United Nations system. The CANZ delegations also supported the request for the Chairperson of the Committee on the Rights of Persons with Disabilities to appear in an interactive dialogue at future Committee sessions.

71. **Ms. Tschampa** (Observer for the European Union), speaking also on behalf of the candidate countries Croatia, Iceland, Montenegro, the former Yugoslav Republic of Macedonia and Turkey; the stabilization and association process countries Albania, Bosnia and Herzegovina and Serbia; and, in addition, Armenia, Georgia, the Republic of Moldova and Ukraine, said that 2011 had witnessed some advancement towards the universal ratification of core human rights treaties by Member States, a key objective set out in the Vienna Declaration and Programme of Action, along with encouraging movement towards withdrawal of reservations that were incompatible with the purpose of the treaties. The

European Union welcomed the trend of ratification of the Optional Protocol to the Convention against Torture.

72. Nonetheless, domestic implementation of the provisions of human rights treaties remained the key challenge. As part of their treaty obligations, States parties also had a duty to cooperate with treaty bodies in the follow-up to both concluding observations and views of individual cases. Having recently participated for the first time as a party in its own right in the Conference of States Parties to the Convention on the Rights of Persons with Disabilities, the European Union had shared its experience with implementing the Convention.

73. The entry into force of the International Convention for the Protection of All Persons from Enforced Disappearance constituted a milestone in human-rights standard-setting and the culmination of over two decades of tireless efforts on the part of non-governmental organizations, Governments and the families of victims of the heinous practice. Stressing the need to ensure the independence and capacity of the members of treaty bodies in performing their mandated tasks, she welcomed the series of consultations on how to make those bodies more efficient and better equip them to deal with the challenges posed by the growing workload and number of States parties. The European Union valued the efforts of the chairs of treaty bodies to formulate a coordinated approach to enhancing the bodies' effectiveness as well as the possibility of interacting with them in the Committee.

74. Commending OHCHR on its excellent work, she stressed that the independence of the Office was crucial to the efficient performance of its tasks. The European Union had supported a project to boost the Office's capacity to facilitate compliance with the observations and views of treaty bodies. Lastly, she stressed that unhindered cooperation with individuals and civil society was also indispensable to enable the United Nations and its mechanisms to fulfil their mandates, and underscored the appeal by the High Commissioner calling on States to stop acts of intimidation or reprisal against persons who cooperated with the United Nations and instead to facilitate such cooperation.

75. **Ms. Nwachukwu** (Nigeria), welcoming the recent conclusion of the first cycle of the universal periodic review of the Human Rights Council and that of the review of the work of the Council, said that it was imperative to strike an agreeable balance between civil and political rights on the one hand and economic, social and cultural rights on the other. Failure to do so would render the discussion of human-rights promotion — which focused almost entirely on the former category — meaningless to the vast majority of people around the world, many of whom increasingly understood their human rights as the rapid improvement of their livelihood.

76. Increased development and financial assistance to developing countries, and redirecting human rights mechanisms towards the advancement of economic, social and cultural rights were imperative for the realization of the Millennium Development Goals (MDGs). As some of the countries most severely affected by poverty, conflicts and preventable diseases, African countries saw clearly the connection between security and development, and the obvious consequences for the full enjoyment of human rights.

77. In spite of the concerted efforts of the international community, it was regrettable that racism, racial discrimination, xenophobia and related intolerance persisted worldwide. As the most populous black nation in the world, Nigeria was committed to playing a leading role in combating all forms of racism, through implementation of the Durban Declaration and Programme of Action, and urged other countries to follow suit. Her Government was also implementing broad political and economic reforms in order to create an environment conducive to the full enjoyment of human rights and fundamental freedoms.

78. A party to the core international human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women, in addition to relevant regional instruments, Nigeria was particularly active in the promotion of gender equality and the empowerment of women. Her Government had established women's empowerment offices throughout the country in order to enhance women's participation in Nigerian political life. It also supported the efforts of UN-Women. Lastly, her Government's open invitation to special-procedures mandate holders to visit Nigeria further attested to its commitment to promoting human rights through the United Nations system.

79. **Ms. Li** Xiaomei (China) said that her Government had paid close attention to the work of human-rights treaty bodies and the process of treaty-body reform in

particular. While it was necessary for human-rights treaty bodies to become more efficient, they must work in strict accordance with their mandates and steer clear of politicization and selectivity. At the same time, treaty bodies should engage in constructive dialogue with States parties in order to ensure that their conclusions and recommendations matched the specific conditions in those countries and were therefore well-targeted and operable.

80. In preparing their general comments, treaty bodies should seek input from all parties, give attention to the views and suggestions of States parties, and avoid overly broad interpretation of treaty provisions. In that connection, her Government had submitted to OHCHR a written response to the general comments of the Committee against Torture. China endorsed necessary reforms of the treaty bodies that respected fully the views of States parties. Given the considerable differences among States parties, her Government proposed the establishment of an open-ended intergovernmental working group to discuss and achieve consensus on treaty-body reform.

81. A party to 25 international human-rights instruments, China was currently carrying out a series of legislative, judicial and administrative reforms in order to prepare for ratification of the International Covenant on Civil and Political Rights, which it had already signed. Her Government had paid close attention to aligning domestic legislation and policy with treaty provisions and had actively fulfilled its treaty obligations in the relevant work. China had submitted reports on its treaty implementation in a timely manner and maintained good communication with various treaty bodies, whose recommendations it had adopted to the extent possible, in light of national circumstances.

82. Under the principle of "one country, two systems", the Chinese Government had assisted the Hong Kong and Macau Special Administrative Regions in fulfilling their human-rights-related treaty obligations. It had also actively participated and would continue to participate in the development of international human-rights norms, such as the recently adopted draft optional protocol to the Convention on the Rights of the Child.

83. **Mr. Valero Briceño** (Bolivarian Republic of Venezuela) said his Government protected the full enjoyment of liberty, justice, equality and solidarity by guaranteeing economic, social and cultural rights on equal footing with civil and political rights. The standards set forth in human-rights instruments to which his country was a party were only applied domestically to the extent that they contained norms that were more favourable than those already contained in the national constitution. A party to nine international human-rights instruments, including the Convention against Torture, it had recently contributed a sum of $38,000 to the United Nations Fund for Victims of Torture.

84. His Government's policies in the area of human rights aimed at attaining social, economic and cultural equality and guaranteeing the fundamental freedoms of all Venezuelans. The exercise of human rights must be rooted in the principles of objectivity, impartiality and non-selectivity, and the universality of human rights must take into account cultural, political, economic and social diversity. Public policy had reduced extreme poverty significantly over the previous decade. Social investment had registered unprecedented growth and made it possible to attain nearly all the Millennium Development Goals, resulting in a participative democracy where the benefits of development were enjoyed alongside political freedoms. The international community had acknowledged the undeniable achievements of the Bolivarian Republic of Venezuela in that regard, most recently in the context of its report from the universal periodic review, presented earlier that month.

85. His country categorically condemned and refrained from committing any and all acts that infringed upon human rights, including political persecution, torture, harboring of international terrorists, curtailing of freedom of expression and detention of protesters. However, certain powerful countries used the pretext of the so-called war on terror to inflict fratricidal invasions and violate the sovereignty of others, while accusing them of flouting human rights.

86. Universalizing human rights in historically oppressed societies was an urgent task that must nevertheless be achieved gradually, as recognition of the universal nature of human rights in no way constituted acceptance of a single global model of sociopolitical organization. Mutual dialogue and respect between sovereign States and non-interference in their internal affairs were indispensable for the promotion of human rights.

The meeting rose at 1.05 p.m.

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Held at Headquarters, New York, on Tuesday, 18 October 2011, at 3 p.m.

Chair: Ms. Popovici (Vice-Chair) ..... (Republic of Moldova)

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Merci de recycler

In the absence of Mr. Haniff (Malaysia), Ms. Popovici (Republic of Moldova), Vice-Chair, took the Chair.

The meeting was called to order at 3.10 p.m.

Agenda item 27: Social development (*continued*)

(b) Social development, including questions related to the world social situation and to youth, ageing, disabled persons and the family (*continued*) (A/C.3/66/L.8 and L.12)

Draft resolution A/C.3/66/L.8: Promoting social integration through social inclusion

1. **Mr. Chuquihuara** (Peru), introducing the draft resolution, said that economic growth alone did not guarantee social inclusion. Democracy was key to the promotion of social inclusion, guaranteeing active civic participation and the exercise of human rights and fundamental freedoms.

2. The principal goal of the draft resolution was to promote social inclusion, especially for those who were marginalized or excluded, in order to foster solidarity and just, tolerant societies that were respectful of difference, within the framework of shared values and aspirations. The present economic crisis made social inclusion measures all the more necessary and relevant.

3. Argentina, Chile and Guatemala had joined the sponsors of the draft resolution.

4. **Mr. Gustafik** (Secretary of the Committee) announced that Colombia had also joined the sponsors of the draft resolution.

Draft resolution A/C.3/66/L.12: Follow-up to the tenth anniversary of the International Year of the Family and beyond

5. **Mr. Cesa** (Argentina), speaking on behalf of the Group of 77 and China, introducing draft resolution A/C.3/66/L.12, said that the family played a pivotal role in social development and economic and social processes. It was therefore important to have a people-centred perspective on development.

6. In 2004, the tenth anniversary of the International Year of the Family had been an opportunity to focus on its objectives. That year, the General Assembly had decided to continue to mark the anniversary every ten years. Recognizing the importance of supporting families and of ensuring action-oriented follow-up to the tenth anniversary, the Group of 77 and China had since then submitted a biennial draft resolution entitled "Follow-up to the tenth anniversary of the International Year of the Family and beyond".

7. The present draft resolution was based in large part on resolution 64/133, and contained no controversial or contentious elements. However, the text had been updated to include elements taken from Economic and Social Council resolution 2011/29 concerning the preparation for and observance of the twentieth anniversary of the International Year of the Family, in 2014. The draft also took account of the recommendations of the Secretary-General in his report to the General Assembly on follow-up to the tenth anniversary of the International Year of the Family and beyond (A/66/62-E/2011/4).

Agenda item 28: Advancement of women (*continued*)

(a) Advancement of women (*continued*) (A/C.3/66/L.19)

Draft resolution A/C.3/66/L.19: Improvement of the situation of women in rural areas

8. **Ms. Sodov** (Mongolia), introducing the draft resolution, said that Guatemala had joined the sponsors. The report of the Secretary-General on improvement of the situation of women in rural areas (A/66/181) clearly demonstrated that rural women played a vital, though not fully acknowledged, role in agriculture and rural development. However, they continued to be economically and socially disadvantaged, had limited access to economic resources and opportunities, and were excluded from planning and decision-making. Therefore, more efforts needed to be directed towards their empowerment.

9. In accordance with General Assembly resolution 58/126 on revitalization of the work of the General Assembly, in particular the stipulation that resolutions should be more concise, focused and action-oriented, and the number of preambular paragraphs kept to the minimum, the preamble of the draft resolution contained only two paragraphs.

10. Paragraphs 7 and 8 were based on the recommendations in the report of the Secretary-General. The provisions therein would facilitate the adoption of gender-responsive rural strategies and

budget frameworks and ensure that rural women's needs and priorities were incorporated, as well as accelerating progress towards gender equality and the empowerment of women in rural areas.

11. **Mr. Gustafik** (Secretary of the Committee) announced that the Plurinational State of Bolivia, Haiti, Madagascar, the Niger and Peru had also joined the sponsors of the draft resolution.

Agenda item 69: Promotion and protection of human rights (*continued*) (A/66/87)

(a) Implementation of human rights instruments (*continued*) (A/66/40 (Vols.I and II), 44, 48, 55, 175, 217, 259, 276 and 344)

(d) Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action (*continued*) (A/66/36)

12. **The Chair** invited the Committee to continue its general discussion of sub-items (a) and (d) of agenda item 69.

13. **Ms. Medal** (Nicaragua) said that her country had adapted its legislation to comply with international human rights standards and with the principles of non-discrimination and equality of all citizens. Nicaragua was a State party to the principal human rights instruments, the provisions of which we largely protected by the country's Political Constitution and other specific laws. Progress had also been made towards the adoption and/or ratification of other important human rights instruments.

14. The Government of Nicaragua's priorities were the enjoyment of economic and social rights and eradicating poverty, and it was establishing policies and programmes that responded to the people's needs, including access to free health care, food, clean drinking water, education, employment and housing. Its National Human Rights Plan set goals that were helping combat poverty, since there was no use discussing rights, citizenship or development without first addressing that scourge. The effective enjoyment of civil and political rights were also necessary for development.

15. Nicaragua had established agencies to ensure compliance with human rights norms, with a particular focus on the most vulnerable sectors of society. An Atlantic Coast Development Council had also been created, with the primary objective of organizing Government actions to strengthen regional bodies and promote development in the autonomous regions and indigenous communities on the Atlantic coast.

16. The justice system had also been modernized in recent years, which had improved human rights protections. A Public Defender's Office had been created, and the Attorney-General's Office had been separated from the Public Prosecutor's Office.

17. All Nicaragua's efforts to implement international human rights instruments had been taken in conjunction with civil society groups, through the Inter-agency Human Rights Committee. That collective effort had led to important progress, including the submission of long-awaited reports to United Nations treaty bodies.

18. **Mr. Tag-Eldin** (Egypt) said that international action to promote human rights was based on the avoidance of confrontation and respect for the distinctive cultural, ethnic and religious features of different societies. Responsibility lay primarily with Governments; the task of the international community was to support national efforts, without conditionalities or outside interference. Developing States should have a stronger voice in international financial and economic decision-making bodies, notably the Bretton Woods institutions, in order to narrow the gap between North and South and achieve higher living standards, which in turn would help to promote human rights.

19. Action was needed to combat extremism, racial discrimination, incitement to sectarian and ethnic violence, and terrorism. Freedom of expression should not be abused to promote harmful ends. Conversely, respect for cultural and religious diversity and tolerance should be strengthened through dialogue. No particular religion or culture should be besmirched by accusations of terrorism.

20. It was important to restore the institutional balance among the main organs of the United Nations, and particularly between the General Assembly and the Economic and Social Council, as regards oversight of the Human Rights Council. The General Assembly, in its resolution 65/281, had reaffirmed the Council's status as a subsidiary body of the General Assembly. The voting on that resolution had revealed a large measure of agreement on the strengthening of cooperation between the Assembly and the Human Rights Council, despite attempts to politicize human

rights issues by bringing matters before the Third Committee that were outside its mandate.

21. The 2005 World Summit Outcome, which had formulated the principle of responsibility to protect, had also reaffirmed that the protection of human rights was essentially a matter for national Governments, with effective assistance from the international community, in a context of respect for the principles of non-interference in the internal affairs of States and respect for their sovereignty and territorial integrity. National capacity-building was the best way of ensuring that the four crimes identified in the Outcome — genocide, war crimes, crimes against humanity and ethnic cleansing — would not recur. Accordingly, increased funding for national capacity-building, notably through the Office of the High Commissioner for Human Rights, would be highly desirable.

22. Egypt's democratic transition had been under way since January 2011. Persons who had committed human rights violations during the revolution of 25 January would be tried and punished. The Government had enacted legislation aimed at strengthening political participation, thereby confirming the revolution's genuine commitment to democracy and respect for human rights. Egypt's National Council for Human Rights was being restructured and would shortly include academics, representatives of human rights organizations, legal experts and social development experts, who would enhance its institutional capacities. The Council would make a vital contribution to the implementation of Egypt's international obligations in the domain of human rights and to the task of guaranteeing freedom, dignity and democracy for the Egyptian people.

23. **Mr. Benmehidi** (Algeria) said that his country was a party to almost all international human rights instruments. It had always devoted resources to economic and social development and to improving the standard of living and well-being of its people. Algeria was committed to promoting and protecting civil, political, economic, social and cultural rights, using a range of constitutional rules, laws and regulations, as well as domestic implementation, evaluation and appeal mechanisms.

24. In 2010, Algeria had invited several Human Rights Council special mandate holders to visit the country, which illustrated its commitment to human rights. At the regional level, both in Africa and in the Arab world, Algeria always assumed its share of responsibility for protecting and promoting human rights.

25. Algeria was undertaking broad political, economic and social reforms, which were helping to strengthen the rule of law and good governance. They included revising the Constitution, enacting a new law on information, decriminalizing press offences and opening up the broadcast media. Revisions were also being made to the law on political parties, the law on civil society organizations and electoral law, and efforts were being made to boost the representation of women in elected bodies. Such reforms demonstrated Algeria's commitment to human rights and would contribute to deepening the democratic process and strengthening the rule of law through an inclusive process involving all the political and social forces in the country.

26. With regard to economic, social and cultural rights, various development plans implemented over the past decade had led to unprecedented improvements in the standard and quality of life. Algeria had also expanded aid programmes helping young people to enter the job market. The country's actions in that regard had been noted by the special rapporteurs of the Human Rights Council and the African Commission on Human and Peoples' Rights. Remarkable progress had also been made with regard to the status of women, in particular since the constitutional reform of 2008. Women already had greater representation, and a draft law had been submitted to parliament establishing a quota of one third of the seats for women in elected assemblies at all levels.

27. Algeria was fully committed to the principle of universal human rights. However, recognition of the universality of human rights was not an acknowledgement that there was only one model of social or political organization. Indeed, universality must be based on recognition of cultural, historical and geographical peculiarities, as clearly reflected in the Vienna Declaration and Programme of Action. It must also be based on the international norms and legal principles that were the legal and political foundation of the United Nations: sovereign equality of States, non-interference in the domestic affairs of States, and respect for the political, economic and social systems that nations had chosen.

28. The creation of the Human Rights Council was motivated by the desire for a forum for dialogue and cooperation to promote and protect human rights without selective and politicized practices. Improvements in countries' performances in relation to human rights required consideration of their level of development, the diversity of their situations, and respect for their individual characteristics. To uphold the achievements of the World Conference on Human Rights, the Council should conduct a rigorous and objective evaluation of the implementation of the Vienna Declaration and Programme of Action.

29. Accession to international human rights instruments must not be selective. Implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was still weakened because it had not been ratified by host countries.

30. Although the international community had made important progress with regard to human rights, many peoples were still deprived of their fundamental rights and remained outside the ideals of peace, progress and prosperity. In that respect, Algeria believed that the right of peoples under foreign occupation to self-determination was a prerequisite to an international order founded on respect for human rights. The remaining challenges related to the implementation of the rights of peoples, in particular the right to peace, the right to self-determination, the right to development and the right to live without fear and poverty, in an environment that preserved the ecological balance of the planet.

31. **Mr. Al Nsour** (Jordan) said that the Jordanian parliament had recently approved comprehensive constitutional reforms to ensure greater human rights protection, enjoyment of freedoms and enhancement of political participation for all citizens. The amended text emphasized the importance of family, youth and persons with disabilities, and their need to be protected from exploitation. It also prohibited torture and banned detention outside of facilities designated by the laws regulating prisons. In addition, any statement extracted under torture would not be considered credible.

32. The amended Constitution expressly guaranteed freedom of opinion and expression. Indeed, there had been an unprecedented shift in the exercise of the rights to expression and public assembly in recent months, with hundreds of peaceful and responsible demonstrations being held every Friday. The establishment of the new constitutional court — an impartial body whose decisions were binding on all parties — was a significant step in national efforts to apply democracy in a manner compatible with the highest international criteria. In addition, the court maintained a balance in the protection of all human rights, espousing emerging human rights concepts and preventing the abuse of rights and freedoms stipulated in the Constitution. An independent election commission had also been established.

33. Jordan would continue to use a quota system for the election of women to the National Assembly, and would continue efforts to remove all barriers that discriminated against the political, social and economic participation of women.

34. **Ms. Heshiki** (Japan) said that her country recognized the importance of the protection and promotion of human rights and had provided many countries with support in establishing democracy and building their legal systems. Recent pro-democracy movements such as the Arab Spring could be effective in promoting fundamental freedoms, human rights and dignities of individuals and should meet with a positive response from the international community.

35. Japan had continuously cooperated with the Human Rights Council, and had provided full support to the special procedures. It was extending its standing invitation to the Special Rapporteurs in 2011, and in 2012 would be a candidate for election to the Council. Her country had reported to the Committee against Torture in July 2011, and submitted its follow-up to the concluding observations of the Committee on the Elimination of Discrimination against Women in August 2011.

36. Japan had adopted a Third Basic Plan for Gender Equality, and was committed to contributing to the activities of international agencies, including UN-Women. It had signed the Convention on the Rights of Persons with Disabilities, had amended its Basic Act for Persons with Disabilities and would establish a Board on Policies Regarding Persons with Disabilities by August 2012 to monitor implementation of national policies.

37. **Mr. Kadyraliev** (Kyrgyzstan) said that his country had implemented a series of specific measures designed to develop its legal system. In 2008 it had signed the Optional Protocol to the Convention against

Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Government was exploring the possibility of establishing a national preventive mechanism to ensure transparency of detention centres and prisons for inspection by national and international experts.

38. The Government wished to expand the dialogue on human rights questions with the representatives of the Council, and was planning to organize a visit in December 2011 by Mr. Juan Mendez, Special Rapporteur on torture. Preventing and combating trafficking in human persons was a focus and priority of the migration policy of Kyrgyzstan.

39. **Ms. Camino** (Cuba) recalled that in 1959 Cuba had begun to construct a political, economic and social system that guaranteed human rights for all without discrimination. In particular, the Cuban people had full enjoyment of their right to self-determination, despite the serious obstacles and threats created by the policy of hostility and embargo imposed by the United States Government for over 50 years. The well-known achievements of Cuba in health, education, scientific and technological research, culture, and sports had been shared with the world by Cuban volunteers working in other countries. Those achievements had been possible because Cubans were the masters of their political destiny and of the country's resources, in a participatory democracy involving broad and transparent discussion aimed at improvement of their economic and social system.

40. Cuba was a State Party to 42 major human-rights treaties, and had ratified the International Convention for the Protection of Persons from Enforced Disappearance and the International Convention on the Rights of Persons with Disabilities. Cuba had participated actively in the establishment of the Human Rights Council, of which it was currently a member, and was participating in the Council's first cycle of the universal periodic review. The reviews should guarantee that the situation of human rights in a particular country was studied impartially and objectively and without selectivity or politicization. Her delegation hoped that, with the new United Nations human rights mechanism, there would be no more sanctions against South countries accompanied by absolute impunity for North countries.

41. **Mr. Ahmad** (Pakistan) said that Special Procedures mandates were important tools that emphasized the link between poverty and violation of human rights. Poverty alleviation and implementation of the Declaration on the Right to Development should therefore be a priority.

42. In view of the increase in racism and racial and religious discrimination, his delegation welcomed the adoption by the Human Rights Council of resolution 16/18 sponsored by the Organization of the Islamic Conference.

43. The Constitution of Pakistan embodied the principle of equal rights and equal treatment, and guaranteed all fundamental rights and freedoms. The country was a party to seven core human rights instruments, and had withdrawn its reservations to the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Ministry of Human Rights monitored and addressed human rights violations and trends, with special reference to women, minorities, and vulnerable segments of society. The Pakistani media oversaw government policies and were working to increase human rights awareness. Civil society was playing an active role in human rights activities. The judiciary had taken steps to guarantee protection of the constitutional rights of all citizens.

44. **Mr. Ahouga** (Morocco) said that in July 2011 Morocco had adopted a new Constitution that represented a new stage in the process of deepening and expanding the national framework of protection of human rights and fundamental freedoms. The Constitution made the Amazigh language an official language of the State, along with Arabic. The State was also working to preserve the Hassānīya language and other national cultural expressions and languages by pursuing a language and culture policy that also encouraged the learning of foreign languages. A National Council for Moroccan Languages and Culture had been established to protect and develop the linguistic heritage.

45. Morocco had established an Authority for Gender Parity charged with combating all forms of discrimination against women. Torture, arbitrary and secret detention, and forced disappearance had been criminalized. Economic, social and environmental rights had been strengthened and independent institutions for the promotion and protection of human rights and for good governance had been set up.

Recognition of the primacy of international law had given new juridical force by the international conventions and treaties to which Morocco was party and new dynamism to efforts to bring national legislation into line with the obligations undertaken in the various international instruments.

46. Morocco had decided to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; and the Optional Protocol pertaining to the International Covenant on Civil and Political Rights. It had also withdrawn certain reservations, and had replaced other reservations with interpretative declarations, concerning the Convention on the Elimination of All Forms of Discrimination against Women.

47. Several projects were under way for revision and modernization of national legislative and institutional arrangements for the protection of human rights.

48. **Mr. Ulibarri** (Costa Rica) said that his country supported the six thematic priorities of the Office of the High Commissioner for Human Rights, which must be given the necessary funds to deal with unforeseen requests from the Human Rights Council. It was important to take advantage of the impetus generated by the popular movements in North Africa and the Middle East demanding respect for the peoples' human rights.

49. In Costa Rica, an Executive Decree issued in August 2011 had established an Inter-Agency Commission for Monitoring and Implementation of International Human Rights Obligations, which would prepare reports, draft Government positions, implement judgements and recommendations of inter-American and United Nations human rights bodies, and coordinate national actions to meet international obligations.

50. Efforts must continue to strengthen the committees that monitored human rights treaties. In view of the difficulties faced by treaty bodies in dealing with their growing workload, solutions needed to be found to strengthen existing mechanisms. Proposals that the Secretariat present a biennial overall request for meeting time, or establish a fixed schedule depending on the reports to be presented, would permit a more systematic and coherent focus. Another matter for consideration was the source of funding for the functioning of the committees.

51. The independence of the members of treaty bodies was a guarantee of their proper functioning. Costa Rica took a positive view of some of the initiatives taken by the Office of the High Commissioner, particularly the Universal Human Rights Index and the listing of questions prior to presentation of the reports, which facilitated the work of the committees and the States Parties and had generated positive results.

52. **Mr. Dushyant Singh** (India) said that his country was pleased with the successful completion of the Human Rights Council review process, in which India had participated, and of the first universal periodic review cycle.

53. India attached great importance to the right to development, recognizing that development was a comprehensive economic, social, cultural, and political process. The important strides his country had made in facilitating citizens' enjoyment of human rights included establishment of an independent National Human Rights Commission in 1993; enactment of the Right to Information Act (2005); and creation by the judiciary of the remedy of public interest litigation to enable persons unable to approach the courts to seek justice via other avenues, a process that had been effective in providing remedies to detainees, children, and other vulnerable groups. A National Commission for Women had been created in 1992 to investigate and register complaints of violations of the rights of women.

54. India had recently begun implementing the Right to Education Act (2009), which applied to all public and private schools. Various bills pertaining to human rights were under consideration in Parliament, including the National Food Security Bill and the National Rural Employment Guarantee (Amendment) Bill of 2011.

55. **Ms. Boiko** (Ukraine) noted that in 2011 the Committee on the Elimination of Racial Discrimination and the Committee on the Rights of the Child had completed consideration of the periodic reports on implementation by Ukraine of the two Conventions concerned and the first report on implementation of the Optional Protocol on the involvement of children in armed conflict. Ukraine had also submitted to the Committee on Economic, Social and Cultural Rights its

sixth periodic report on implementation of the International Covenant on Economic, Social and Cultural Rights, covering the period 2006-2009. The seventh periodic report on the implementation of the International Covenant on Civil and Political Rights had been submitted to the United Nations Human Rights Committee. The follow-up resolution on the role of prevention in the promotion and protection of human rights, initiated by Ukraine, had been adopted by the Human Rights Council at its fourteenth session.

56. During its chairmanship of the Committee of Ministers of the Council of Europe from May to November 2011, one of the priorities of Ukraine had been human rights and the rule of law in the context of democracy and stability in Europe. Ukraine had hosted an international conference in September 2011 in Kiev on the role of prevention in promotion and protection of human rights.

57. **Mr. Ferami** (Iran) said that his country had submitted a detailed and substantiated national report under the universal periodic review mechanism of the Human Rights Council, and had sent a high-level delegation to the Council in February 2010. Iran had submitted its third periodic report pursuant to the International Covenant on Civil and Political Rights. The second periodic report on activities and measures to implement the rights embodied in the International Covenant on Economic, Social and Cultural Rights had been submitted. Two reports pursuant to the Convention on the Rights of the Child had been submitted and defended, and Iran was in the final stage of preparing its third and fourth reports.

The meeting rose at 4:55 p.m.

United Nations A/C.3/66/SR.23

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Chairman: Mr. Haniff ..... (Malaysia)

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The meeting was called to order at 10.10 a.m.

Agenda item 69: Promotion and protection of human rights (A/66/87)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (A/66/156, 161, 203, 204, 216, 225, 253, 254, 262, 264, 265, 268, 269, 270, 271, 272, 274, 283, 284, 285, 289, 290, 293, 310, 314, 325, 330, 342 and Add.1, and 372)

(c) Human rights situations and reports of special rapporteurs and representatives (A/66/267, 322, 343, 358, 361, 365, 374 and 518)

1. **Ms. Pillay** (United Nations High Commissioner for Human Rights), introducing her annual report (A/66/36) which focused primarily on the six thematic priorities of the Office of the High Commissioner for Human Rights (OHCHR), said that the protest movements in the Middle East and North Africa had reaffirmed the reach of human rights in areas where repression and a denial of rights once seemed immutable conditions. Her Office had sought to support the quest for civil, political, economic and social rights at both the national level and in international forums.

2. Where human rights mechanisms were concerned, OHCHR welcomed the fact that all 193 Member States had participated in the universal periodic review process. Her Office had provided support to States in the preparation of the reviews and proposed practical ways to follow up the recommendations. More than 89 Member States had extended standing invitations to special procedures, but the mandate holders still faced difficulties in securing approval to visit States, including some that had extended invitations. She therefore urged the General Assembly to encourage intensified dialogue at the national, regional and international levels.

3. The number of treaty bodies had doubled over the last 10 years with the corresponding increase in accessions and reporting; the downside was that the system was overloaded. Her Office was facilitating dialogue among stakeholders to develop proposals for strengthening the system. The Universal Human Rights Index, an electronic tool managed by her Office, was an innovative instrument for the study and advocacy of the work of human rights mechanisms. It permitted wide dissemination of the recommendations and observations of the human rights treaty bodies and special procedures to assist States in the implementation of recommendations and to streamline follow-up at the national level.

4. Her Office continued to draw attention to discrimination and inequality, including discrimination on the basis of sexual orientation or gender identity. In June, the Human Rights Council had adopted resolution 17/19 in that regard, requesting her Office to commission a dedicated study to be released at the Council's nineteenth session. OHCHR had played a leading role in the 2011 International Year for People of African Descent, developing an office-wide framework for action to combat discrimination against Afro-descendants. It had launched a fellowship programme aimed at empowering people of African descent and provided technical assistance to five countries for the development of national action plans against racial discrimination.

5. The twenty-fifth anniversary of the Declaration on the Right to Development had been commemorated recently, inspiring activities to advance the right to development that would continue beyond 2011. In pursuing its task of promoting human rights in the context of migration, her Office highlighted the situation of all migrants, including irregular migrants, whose human rights were routinely violated.

6. With regard to combating impunity, and protecting human rights in the context of armed conflict and insecurity, OHCHR had led the efforts of the United Nations in the field of transitional justice, a key element of post-conflict situations to ensure that violence was neither condoned nor perpetuated through impunity. In that regard, her Office had provided technical advice to the Democratic Republic of the Congo on a draft law for the establishment of special chambers for the prosecution of violations of international human rights law and humanitarian law. Human rights education was important as a means to combat impunity and strengthen accountability, the rule of law and democracy. The Office had implemented human rights education programmes, provided assistance to Governments, institutions and civil society, and developed related tools in that field.

7. Recent developments in various countries of the Middle East and North Africa and other situations, such as those in the Sudan and Côte d'Ivoire, had

highlighted the critical need to develop sustainable ways to prevent the escalation of violence and protect civilians promptly and effectively. In addition, in an increasing number of countries, large-scale violent crime also exacted an enormous toll on human rights. However, the fight against crime, if not carried out in full respect for human rights, could result in further attacks on the rights of those that OHCHR sought to protect.

8. In conclusion, in the face of the towering challenges and escalating expectations, it had become increasingly difficult for the Office to keep pace with the multiplication of mandates and requests for assistance. The General Assembly's decision to consider ways to make essential resources speedily available in response to urgent and time-sensitive mandates created by the Human Rights Council was a welcome measure. The support of all Member States was necessary to ensure that the human rights programme truly constituted the third pillar of the United Nations and responded to the legitimate demands of people in all parts of the world.

9. **Mr. Kamau** (Kenya), speaking on behalf of the African Group, said that the Group was grateful to the High Commissioner for her engagement with human rights in Africa and worldwide and underlined its support and commitment to international human rights. Nevertheless, it was dismayed by the historical bias of the Office of the High Commissioner towards civil and political rights, at the expense of economic, social and cultural rights. The Group would have liked to have seen proposals for a more robust engagement with regard to the latter that promoted synergies between the two interrelated sets of rights. Development and respect for human rights were interdependent, and human rights could not be guaranteed in an environment of abject poverty, hunger and disease.

10. Many human rights instruments imposed onerous obligations that required expertise at the national and regional levels. The Office should enhance its capability to provide the necessary technical assistance and support to Member States when requested. Furthermore, the staff composition of OHCHR should reflect the full diversity of the human race. Africa had consistently insisted that the imbalance in its composition had a negative impact on the Office's effectiveness and delayed the collective attainment of human rights.

11. While appreciating efforts to eliminate discrimination and acts of violence against any individual, the African Group was concerned about attempts to undermine international human rights by seeking to impose concepts or notions pertaining to social issues that fell outside the framework of the human rights system, and that resources were being expended on such issues to the detriment of the internationally recognized rights such as those to development and to food. The Office should act with restraint until all Member States had defined the scope and application of such notions.

12. No State could claim to have fulfilled all its human rights obligations. At times, the highly politicized approach to dealing with human rights issues jeopardized the realization of human rights worldwide. The promotion and protection of human rights involved more than identifying so-called wrongdoers or exhorting culprits to improve their performance. Genuine improvement required a measure of historical perspective and humility, political commitment, cultural sensitivity, resources and long-term effort in areas such as education, health care, poverty and hunger eradication, as well as institution-building and strengthening. To that end, the African Group called for increased support and genuine partnership with both OHCHR and the international community.

13. **Mr. Mac-Donald** (Suriname) said that his country appreciated the guidance received from the Office of the High Commissioner during the universal periodic review process and also hoped that OHCHR would support the initiative to erect a permanent memorial to transatlantic slavery at United Nations Headquarters in New York. He asked whether the Office would be initiating new programmes to assist Member States achieve Millennium Development Goal 3: Promote gender equality and empower women. Also, the High Commissioner had mentioned that she was providing technical advice on the draft law for prosecution of violations of international human rights law. It would be interesting to know whether the law would apply to United Nations peacekeepers who committed human rights violations while involved in peacekeeping operations.

14. **Ms. Morgan** (Mexico) said that Mexico supported the thematic priorities of the Office of the High Commissioner and would be interested to have information on some of the actions that OHCHR was

undertaking to prevent the violation of the human rights of migrants.

15. **Ms. Morch Smith** (Norway) said that her country welcomed the Office's leading role within the United Nations system with regard to transitional justice and would like to know how OHCHR was working with other United Nations agencies to ensure a coordinated and coherent approach to the rule of law and accountability. Norway strongly supported the focus on human rights violations, including discrimination based on sexual orientation or gender identity. It looked forward to the study requested in Human Rights Council resolution 17/19 and would like to know how Member States could support the High Commissioner in moving that agenda forward.

16. Full respect for the independence of OHCHR was of paramount importance to ensure that it remained an objective and strong voice against human rights violations. Member States had the responsibility to ensure that essential resources were made available so that the Office could respond to the urgent and time-sensitive mandates created by the Human Rights Council.

17. **Ms. Bouhamidi** (Morocco) said that her country welcomed the special attention paid to the right to development in the High Commissioner's report and would appreciate an update on the activities planned by the Office to celebrate the twenty-fifth anniversary of the Declaration of the Right to Development. The Human Rights Council's special procedures made a valuable contribution to the promotion and protection of human rights; and the universal periodic review mechanism was of tremendous importance in helping States improve their human rights situation on the ground. On the issue of strengthening the treaty body system, Morocco proposed that the High Commissioner address the General Assembly, through a side event or an informal briefing, to launch a discussion among Member States.

18. **Mr. Yahiaoui** (Algeria) asked the High Commissioner to comment on the role that her Office could play to ensure that the special procedures respected their mandates, as well as on a code of conduct, in order to safeguard their independence and ensure that their work was based on trust and cooperation with Member States and avoided politicization. Algeria welcomed the consultations on the opening of country and regional offices undertaken by OHCHR with the States concerned. It would be interesting to know whether the plan for the new regional offices provided for equitable geographical distribution of the people staffing them.

19. When referring to the protection of the human rights of migrants, the High Commissioner had not mentioned the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which had been ratified, above all, by countries of origin. It would be useful to know what the Office was doing to promote the universal ratification of the Convention.

20. **Ms. Zolotova** (Russian Federation) said that the events of the Arab Spring had significantly added to the work of OHCHR. The issue of providing unplanned financial resources, especially with regard to decisions of the Human Rights Council, had not yet been decided. She wished to know how the High Commissioner was dealing with the situation. The single meeting with Member States in Sion, Switzerland, was insufficient to elaborate adequate decisions to overcome the current situation of the treaty bodies. The High Commissioner should provide information on her plans to advance the reflection process.

21. Mention had been made of indexing the recommendations of the universal periodic review and other mechanisms in order to help Governments implement them. It would be useful to know which recommendations would be included and how the index would assist implementation. While agreeing that human rights violations should not remain in impunity, the main focus of the work of OHCHR should be on enhancing dialogue with Member States in order to improve their collaboration. The High Commissioner's mandate should not be re-focused from a policy of assisting States in the area of human rights to the function of international judge.

22. **Mr. de Bustamante** (Observer for the European Union), while commending the work of the Office of the High Commissioner in responding to the dramatic changes and evolving situations in the Middle East and North Africa, expressed deep dismay at the worsening situation in the Syrian Arab Republic and hoped that authorities would heed the call to cooperate with the international commission of enquiry appointed by the Human Rights Council. Information would be appreciated on the establishment of a regional office

for North Africa. His delegation would welcome the High Commissioner's views on how to further reinforce the integration of human rights and the peace and security pillar of the United Nations. More information would also be welcome on future measures for strengthening the treaty body system.

23. **Ms. Li** Xiaomei (China) said that efforts to ensure the right to development should not be limited to the celebration of the twenty-fifth anniversary of the Declaration, but should increase the focus on economic, social and cultural rights to help developing countries achieve the Millennium Development Goals. As requested, the Office should submit a strategic management plan mentioning the source and distribution of resources for the consideration of the Human Rights Council and listen to the views of all countries so as to obtain a broad consensus. To fulfil its role in investigating human rights violations, OHCHR should abide by the respective authorization of the Human Rights Council; adhere to the principles of impartiality, objectivity and neutrality; respect sovereignty and territorial integrity, and promote political dialogue with all parties concerned.

24. **Ms. Freedman** (United Kingdom) commended the Office on its extremely active role in highlighting human rights violations, especially in the Syrian Arab Republic, and called on the Syrian Government to immediately cease all human rights violations and protect the Syrian people. The Council had also acted decisively in promoting and protecting human rights through its ground-breaking resolution 17/19 on human rights, sexual orientation and gender identity and the special sessions on Côte d'Ivoire, Libya and the Syrian Arab Republic. The special procedures were an essential resource in addressing situations of concern, but they continued to face difficulties in arranging visits to some States. In particular, the United Kingdom called on the Government of the Islamic Republic of Iran to facilitate access for the Special Rapporteur on the situation of human rights in that country.

25. The United Kingdom attached great importance to the treaty bodies and hoped that the High Commissioner would give them the high priority that they deserved when allocating resources. It looked forward to her proposals to strengthen the system without adding significant resource requirements and also hoped that attention would be given to national selection processes for treaty body members so as to encourage States to nominate members who were independent from the Government and had the required expertise to assist States with the implementation of their respective obligations.

26. **Mr. Al-Yafei** (United Arab Emirates), speaking on behalf of the Organization of the Islamic Conference Group, said that the member States of the Group had worked to enable the United Nations system to take measures for the protection of human rights, including in areas under foreign occupation. Regarding the High Commissioner's reference to sexual orientation, the Group was seriously concerned at the attempt to introduce in the United Nations an undefined notion with no legal foundation in any international human rights instrument and to focus on certain individuals on the grounds of their sexual preferences and behaviour, while ignoring widespread intolerance and discrimination based on other factors, including xenophobia. Individuals were not inherently vulnerable, but were made vulnerable owing to their socio-economic circumstances.

27. The Group considered that an attempt was being made to impose undefined notions on the wider membership of the United Nations without any legal foundation or internationally agreed definition of its scope. Consequently, its member States rejected the High Commissioner's statement and the references in her report with regard to such notions and would like such references in a formal report of a United Nations body to be avoided in the future.

28. **Ms. Horsington** (Australia) said that her delegation would be interested to hear the High Commissioner's view on what she expected from the second round of the universal periodic review process and on the types of follow-up or information-sharing mechanisms that could be established to evaluate the performance of individual countries.

29. **Mr. Tagle** (Chile) said that Chile supported all measures to eliminate discrimination, including the initiative to erect a memorial to transatlantic slavery. Migrant workers were particularly affected by discrimination, and Chile was working to implement their rights. While reaffirming its commitment to the Office of the High Commissioner, Chile would appreciate further information on its future relationship with other United Nations agencies, especially those dealing with human rights issues.

30. **Ms. Cavanagh** (New Zealand) said that her country remained a strong supporter of the

independence and integrity of the High Commissioner and her Office, which had risen to meet the extraordinary array of human rights challenges over the past year, and it welcomed efforts to integrate human rights into all areas of the work of the United Nations. She would therefore be interested in hearing the High Commissioner's views on further steps that could be taken to integrate human rights into ongoing discussions on the Millennium Development Goals. It was evident that changes were required to the treaty body system. Her delegation looked forward to the High Commissioner's forthcoming compilation of proposals and would welcome comments on which proposals she considered most useful for improving its functioning.

31. **Mr. Sparber** (Liechtenstein) asked what effect the urgent human rights mandates entrusted to the High Commissioner by the Human Rights Council had on the OHCHR budget. Treaty body reform was most efficiently and effectively carried out by the treaty bodies themselves in close consultation with States parties. Efforts should concentrate on specific practical measures instead of engaging in intergovernmental attempts to make sweeping changes. It would be useful to know what the Office of the High Commissioner considered were the most promising paths to reform the treaty bodies. Liechtenstein was concerned that, recently, human rights appeared to have been banished from the mainstream of United Nations activities. Did the High Commissioner share that assessment and, if so, what could be done to turn the situation around?

32. **Ms. Boutin** (Canada) said that Canada remained concerned about the human rights situation in various places around the world, including the Islamic Republic of Iran and the Democratic People's Republic of Korea. The Canadian Government was establishing an office of religious freedom within the Ministry of Foreign Affairs to advance the right to freedom of religion and conscience as a key objective of Canadian foreign policy and would like to know what steps the international community could take to advance that right. In addition, Canada remained concerned that some actors continued to misuse international platforms to politicize anti-Semitic views and asked what measures the international community should focus on in order to effect positive change in that regard.

33. **Mr. Wrafter** (Ireland) said that the High Commissioner had referred to the strengthening of treaty bodies in her report. Ireland would like to know what the next steps would be in that process and also looked forward to the study that OHCHR had been mandated to prepare under Human Rights Council resolution 17/19 on human rights, sexual orientation and gender identity.

34. **Mr. Minty** (South Africa) said that, in the context of the priority areas identified by the High Commissioner for the budget year, support for the special procedures and mechanisms remained crucial for ensuring the protection and promotion of human rights. South Africa regarded the United Nations treaty body system as the keystone for ensuring that States parties respected their obligations. Nevertheless, the survival of the system was threatened by the failure of States to sign and ratify core international human rights instruments, the tendency to include reservations, and lack of funding.

35. Regarding the study on discrimination on the basis of sexual orientation, it was imperative that the panel to be convened facilitated dialogue on the issue, rather than entrenching further divisions and finger-pointing. Racism was rising in many countries and regions. South Africa therefore welcomed the efforts of OHCHR to translate the international obligations under the Durban Declaration and Programme of Action into national laws, policies and programmes.

36. It would be useful to have more information on the proposed index of the universal periodic review recommendations and how it would work in practice and also on the level of support granted to date to the High Commissioner's Fellowship Programme for People of African descent. Lastly, he asked whether OHCHR had any plans to assist in the achievement of the Millennium Development Goals in the light of the slowness of progress, especially in Africa.

37. **Ms. Nemroff** (United States of America) said that her country was ready to work with the Office of the High Commissioner and other Member States to ensure that bureaucratic hurdles were not permitted to obstruct the mandates of the commission of inquiry. Regarding the Syrian Arab Republic, it was profoundly concerned by the report of the fact-finding mission. She welcomed the formation of a commission of inquiry and strongly urged full cooperation by all members of the international community.

38. She requested further information on what could be done to overcome the bureaucratic and budgetary obstacles to the implementation of high-priority time-sensitive activities mandated by the Human Rights Council, such as fact-finding missions and commissions of inquiry. Also, what steps could be taken to increase cooperation between OHCHR and the special rapporteurs and commissions of inquiries, and what should be done when repeated requests for access and cooperation were denied? Lastly, it would be interesting to know whether there were any issues that the High Commissioner believed should be taken up by the Human Rights Council that were not on its agenda currently.

39. **Mr. Makanga** (Gabon), endorsing the observations made by Kenya with regard to the importance of economic, social and cultural rights and respect for an equitable geographical distribution in the staffing of the Office of the High Commissioner, said that human rights were increasingly important for peace and security, particularly in regions affected by crises and conflicts such as the subregion of Central Africa, where there were multiple challenges.

40. The United Nations Subregional Centre for Human Rights and Democracy in Central Africa, which celebrated its tenth anniversary in 2011, was a crucial instrument for improving the observance of human rights in the subregion. Its credibility and utility had been firmly established. However, the Centre required additional human and financial resources in order to fulfil its mandate in light of the multiple crises and conflicts in the subregion.

41. **Mr. Omba Olenga** (Democratic Republic of the Congo) said that most human rights violations in the Democratic Republic of the Congo took place in the eastern part of the country where there were foreign armed groups, especially the Lord's Resistance Army and the Forces démocratiques de libération du Rwanda. His country was countering the activities of those armed groups in order to ensure the observance of human rights in that area and pledged its full support to the Office of the High Commissioner in order to re-establish peace and security there.

42. **Mr. Babadoudou** (Benin) said that the report of the High Commissioner referred to the supposed intimidation or reprisals against those who cooperated with the United Nations and its representatives in the field of human rights. He asked how that could be explained and whether there was perhaps a much deeper cause for that reaction.

43. Benin considered it unacceptable that attempts were being made to flout existing rights or to create rights or introduce new concepts for which there was, as yet, no content. The High Commissioner had referred to the issue of discrimination, but appeared to prefer dwelling on notions that did not appear in the Universal Declaration of Human Rights. That was all the more regrettable because, for developing countries, the important issue was how to ensure the rights to access to food, primary health care and housing. His delegation did not deny the existence of sexual rights, depending on their content, but considered that the priority needs should be looked at more closely.

44. His country again wished to draw attention to General Assembly resolutions 62/171 and 63/173 on the International Year of Human Rights Learning and would like to know why the resolutions had not been mentioned in either the High Commissioner's report or presentation or in resolutions recently adopted by the Council.

45. **Ms. Mballa Eyenga** (Cameroon), referring to the report of the Secretary-General on the Subregional Centre for Human Rights and Democracy in Central Africa (A/66/325), said that Cameroon urged continued support for the Centre in Yaoundé, which had helped train personnel in charge of teaching democracy and provided support to national institutions on human rights and democracy. Although the report referred to shortcomings that still existed in the promotion and defence of human rights in Central Africa, her delegation hoped the Committee would observe the progress achieved by the Centre, as well as the commitment of the countries of the subregion to cooperate with the Centre towards the ideal of a culture of peace.

46. **Ms. Camino** (Cuba) said that, during the eighteenth session of Human Rights Council, Cuba had sponsored resolution 18/6 to establish a new mandate of independent expert on the promotion of a democratic and equitable international order, which had been submitted to the General Assembly for adoption during the current session. That special procedures mandate would contribute to strengthening the work of OHCHR.

47. Cuba, like other developing countries, would continue to advocate the right to development as an

essential issue. It was not enough to merely mention the twenty-fifth anniversary of the adoption of the Declaration on the Right to Development. Specific measures must be taken. Lastly, Cuba reiterated the importance of observing the principles of objectivity and impartiality in the work of the Human Rights Council, as well as the importance of strengthening cooperation in favour of human rights.

48. **Mr. Selim** (Egypt) said that the technical assistance tools of the Office of the High Commissioner needed to be improved. His delegation would appreciate the High Commissioner's suggestions in that regard; in particular, as to whether adequate funding was being allocated for that purpose. A transparent and open dialogue between the High Commissioner, the Human Rights Council and the Committee could play an important role in supporting international efforts. Further cooperation and consultation would be appreciated, and Egypt would like to know how such an open dialogue could be established with regard to the strategic framework of OHCHR and the allocation of budgetary and extrabudgetary resources.

49. Egypt welcomed the efforts made to strengthen the treaty bodies and looked forward to further steps at the intergovernmental level to reach a consensual framework that would enable them to operate more effectively and efficiently and to avoid duplication with already-existing mechanisms such as the universal periodic review.

50. **Mr. Falouh** (Syrian Arab Republic) said that in recent months his country had been subject to crimes against it and its people committed by armed terrorist groups, accompanied by an unprecedented media campaign, supported by a number of Western countries, with allegations targeting security, stability and national unity aimed at undermining Syrian institutions and the country as a whole.

51. The Syrian Arab Republic had welcomed a United Nations delegation on humanitarian assistance and had received the International Committee of the Red Cross, which revealed that it had nothing to hide. Moreover, the Government had repeatedly stated that it was ready to receive the Human Rights Council's commission of inquiry after it had concluded a comprehensive national investigation. His country had presented its national report under the universal periodic review in July 2011, which had been supported by the majority of Council members and, subsequently, it had adopted over 100 recommendations. Lastly, his Government was disappointed that the High Commissioner had not mentioned Israel's occupation of Arab territories and would like to know more about the measures that she intended to take to promote the protection of human rights in situations of conflict, especially the rights of peoples under foreign occupation, in order to guarantee the impartiality of her work.

52. **Mr. Al Habib** (Islamic Republic of Iran) said that his Government believed in positive cooperation and interaction with OHCHR to promote human rights and to that end planned to invite the High Commissioner and two special rapporteurs to visit the country in 2012. He stressed that the Office should retain its unbiased approach and independence while operating within the framework of the accepted principles of the Human Rights Council and should cease to insist on issues that were not internationally recognized human rights norms and standards in its reports.

53. **Ms. Pillay** (United Nations High Commissioner for Human Rights) said that the points raised provided a very useful perspective and insight and that her goal was to be transparent and provide information on all the work of her Office. Some delegations had felt that its work was biased in favour of civil and political rights; however, over the past three years, she had prioritized economic, social and cultural rights, as well as the right to development, with several specific activities. She did not act as an international judge, but rather within the mandate and framework provided by Member States. Although her efforts to monitor and address human rights violations sometimes brought her into confrontation with States, they were carried out in a spirit of cooperation. For example, in the midst of conflicts in Côte d'Ivoire, Yemen, Tunisia, Egypt and Libya, members of her Office had been invited to visit those countries and provide assistance.

54. Since assuming office, she had tried to improve the geographical diversity in staffing and asked delegations to observe the trend in overall geographical representation. In particular, there had been a distinct improvement in the recruitment of candidates from Africa. She appreciated the expressions of support for the independence of her Office and believed that it should work closely with the Human Rights Council to better protect and promote human rights. While there should be clarity and transparency in what OHCHR

was doing, as part of the United Nations Secretariat, its reporting obligations were to the Secretary-General and to the General Assembly.

55. The Office's regular budget amounted to less than 3 per cent of the regular budget of the United Nations, which was scandalous, since human rights was one of the Organization's three pillars. The constant addition of mandates and the necessary shifting of priorities to implement them made financial planning and management difficult and could not continue, especially with regard to the number of urgent fact-finding missions. A report was being submitted during the current session of the General Assembly which included as options: a review of mandates and resource requirements immediately following each session; immediate access to a regular budget contingency fund; establishment of a human rights contingency fund, and access to the unforeseen and extraordinary expenses mechanism.

56. Some delegations had asked how her Office had been able to cover additional expenses. A contingency fund based on voluntary contributions enabled it to respond to crisis situations, but the fund had been fully depleted earlier in the year due to the missions to Tunisia, Egypt and Yemen and the commissions of inquiry that she had been mandated to support for Libya and Côte d'Ivoire. The contingency fund had been replenished with non-earmarked voluntary contributions to maintain a rapid response capability; however, it had again been depleted, and she was very worried about the financial situation. Although some States had made a significant commitment to cooperate with the special procedures, more needed to be done. She considered that pledges by States seeking membership on the Council could include such commitments, and the General Assembly could encourage the Council to follow up on such pledges regularly.

57. On assuming office, each mandate-holder was provided with the Code of Conduct, available on the Internet, and also had to sign a solemn declaration included in the Code. Her staff regularly drew mandate-holders' attention to their responsibilities. Concerns about the conduct of mandate-holders should be referred to the special procedures Coordination Committee under the internal advisory procedure, so that all sides could clarify any allegations concerning exceeding the mandate.

58. She had regularly called for ratification of all treaties, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which had resulted in a large number of ratifications. Over the past five years the treaty body system had doubled in size, mainly due to the entry into force of new treaties and the increased number of committees. The treaty bodies were in crisis, particularly with regard to funding. Proposals to rectify the situation had been made by various stakeholders; nevertheless, suggestions regarding more efficient working conditions should come from the committee members themselves. A two-day workshop on the matter had been held in Switzerland with some 90 Member States together with the heads of all nine treaty bodies. She hoped to have a similar dialogue in New York.

59. The second cycle of the universal periodic review would examine implementation of the more than 14,000 recommendations from the previous exercise when the human rights situation in 193 States had been reviewed. The Universal Human Rights Index, which should have been brought up to date before the second cycle, would be the only online tool that compiled recommendations from all human rights mechanisms and would permit the recommendations from all parts of the human rights system to be compared and analysed.

60. The Arab Spring had emphasized that the concern of people on the street was poverty, food and employment as well as democracy and political participation. The Office had continued to increase relevant activities to further promote and protect economic, social and cultural rights. In 2011, it had produced a report on indicators for monitoring the economic, social and cultural rights of migrants. It had also organized a consultation on land and human rights and a workshop on transitional justice processes.

61. Her Office would continue to provide technical advice to national partners through its field presence in 56 countries. Requests to the Office had increased almost sevenfold and she hoped to respond to them as fully as possible. On the issue of integrating human rights into peace and security, OHCHR worked closely with the Department of Peacekeeping Operations and the Department of Political Affairs and had a long record of collaboration on integrated missions.

62. In conclusion, with regard to the concerns raised about sexual orientation and gender identity, she said that, as a human rights challenge, the issue should not be controversial. Her Office was not trying to create new rights, but merely to highlight that everyone was entitled to the same rights and to equal protection as established under the Universal Declaration of Human Rights. She looked forward to discussing the issue constructively with all Member States during panel discussion on the study that she had been mandated to prepare and was convinced that, if the focus was on the violations perpetrated against those who were gay, lesbian, bisexual or transgender, there would be increasing support for action to address such problems more effectively.

63. **Mr. Nambiar** (Special Adviser to the Secretary-General on Myanmar) introduced the report of the Secretary-General on the situation of human rights in Myanmar (A/66/267) and described the latest developments in the situation in the country, noting that the Secretary-General had remained personally engaged on the issue at all times. On the political front, the most significant event had been the first meeting between the President and Daw Aung San Suu Kyi since 2002 following the latter's first political trip outside Yangon since her release from house arrest. Daw Aung San Suu Kyi had publicly expressed her confidence in the President's reform intentions and had held three rounds of talks with the Minister for Social Welfare, which included discussions on the granting of amnesty, peacebuilding, and cooperation to ensure law and order. The Minister had stated that the Government was willing to cooperate with the National League for Democracy after it had completed the legal registration procedure.

64. Since then, around 220 political prisoners had been released as part of an amnesty granted by the President, channelled through Parliament with the support of the military faction in the legislature. While welcoming that development, the Secretary-General had called for the release of all political prisoners. In parallel, the President had invited ethnic armed groups to enter into peace talks with their respective regional or state governments, and an official peace committee had been established to resolve ethnic conflicts. As a result, two peace agreements had been concluded. Overcoming Myanmar's painful history of civil conflict was a necessary condition for establishing the peace and stability needed for development.

65. There had also been significant political activity, and a large number of bills had been submitted to the new Parliament, including by opposition parties on politically sensitive issues. Three related developments revealed the steady pace at which reform efforts appeared to be taking hold. First, the agreement to take up a bill for amending the Political Parties Registration Law, following concerns that arose from the last elections. The by-election for 48 legislative seats in November would test how far the Government was ready to go towards ensuring a more inclusive political process. Second, the recent enactment of a new labour law guaranteeing the right to form and join unions and to strike. If correctly implemented, it had the potential to make a major contribution to the country's social, economic and political development. Third, the introduction of a new media law aimed at correcting existing legal restrictions to freedom of the press. In that regard, several foreign and exiled journalists had been allowed to visit Myanmar and to cover parliamentary proceedings.

66. The pace of domestic developments had coincided with a renewed engagement of Myanmar and the international community. Much had happened in Myanmar that gave reason to believe that real prospects for change existed. Nonetheless, the scale of the challenges that lay ahead had to be considered. If not properly managed, the stresses and expectations inherent in any transition could exacerbate rather than solve existing problems. All parties needed to redouble their efforts to strengthen national unity, implement the promised reforms and address the serious challenges facing the country. Achieving a credible transition from military rule to a civilian and democratic system would require the Government and other stakeholders to avoid the pitfalls and maximize the opportunities accompanying a transformation of such magnitude and complexity. In addition, the international community would need to increase its action to support and reinforce the changes.

67. The United Nations shared the perception of many, including Daw Aung San Suu Kyi, that change was possible. All Member States had a stake in seeing Myanmar succeed in introducing further reforms and democratization. The United Nations was committed to a policy of comprehensive engagement with the Government and people of Myanmar in the areas of political, humanitarian and development assistance. However, the United Nations system would be even

better placed to help if the existing restrictions on its operations were removed.

68. **Mr. Thant Kyaw** (Myanmar) said that, over the past year, Myanmar had undergone significant changes as regards its adherence to democratic values, which had attracted the positive attention of the international community. Elected representatives were exercising their democratic rights in the legislative bodies, and parliamentary debates were being reported onto the people by both official and private media. The Government had made it clear that citizens could participate freely in the political process and was working towards a peaceful solution with national armed groups. A series of socio-economic reforms had been undertaken that included increasing salaries, overhauling public health care and social security, raising education and health standards, amending press laws, promoting environmental conservation and enhancing measures to respond to natural disasters.

69. Myanmar valued its cooperation with the United Nations and would continue to strengthen it. He hoped that the country programme of the United Nations Development Programme would be resumed in the near future. Although challenges remained, the process of democratization would move forward in a dynamic and sustainable manner with the cooperation of the international community.

The meeting rose at 1.10 p.m.